

STATE OF MICHIGAN



DEPARTMENT OF MANAGEMENT AND BUDGET
OFFICE OF RETIREMENT SERVICES

Domestic Relations Order for Retirees

Office of Retirement Services
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Domestic Relations Order for Retirees

A Domestic Relations Order (DRO) filed with the retirement system typically provides for a division of a pension as a marital asset. The requirements of a DRO under Michigan law, including the retirement system's statute, must be met before a DRO can be administered. The Eligible Domestic Relations Order (EDRO) Act (1991 PA 46), applies to orders filed with the retirement system *before* the retirement effective date. In cases where the divorce occurs *after* the retirement effective date, a DRO is necessary to divide a pension or to remove the survivor option if one was elected at the time of retirement.

Terms of a Domestic Relations Order

Definitions

Retirant a member who has retired with a pension due and payable from the retirement system.
Former spouse a spouse who is granted a divorce from the retirant.

Public Acts

The Office of Retirement Services (ORS) administers the retirement systems listed below, which are controlled by the respective public act.

| | |
|--|---------------------------|
| Michigan Public School Employees Retirement System | MCL 38.1301 <i>et seq</i> |
| State Employees' Retirement System | MCL 38.1 <i>et seq</i> |
| Michigan State Police Retirement System | MCL 38.1601 <i>et seq</i> |
| Judges Retirement System | MCL 38.1201 <i>et seq</i> |

A Domestic Relations Order must include the following (please see sample):

1. Retirant's full name, date of birth, last known address, social security number, effective date of retirement, and option chosen at retirement.
2. Former spouse's full name, date of birth, last known address, and social security number.
3. One of the five alternatives explained in the sample DRO that assigns a portion of the retirant's pension. Slight variation regarding post-retirement increase distribution is permitted. DRO's that do not follow the sample **will be rejected** by ORS.
4. A DRO must be entered by the court, approved by ORS, and a true or certified copy filed with ORS before the member's death.

Pension assignment:

The DRO may follow one, or a combination, of the following:

1. The DRO may assign a percentage or a specific dollar amount of the pension to the former spouse.
2. The DRO may change the retirant's survivor option (50%, 75%, or 100%) to a straight life option if applicable.

Payments to the former spouse or changes to the survivor option will be effective the first of the month following ORS' receipt of an acceptable DRO.

Post-retirement payments/increases granted to a former spouse

The former spouse may receive a portion of the retirant's pension and post-retirement guaranteed benefit increases, if specifically stated in the DRO. If the former spouse is awarded a specific dollar amount, the guaranteed benefit increases must also be awarded as a specific dollar amount.

Upon the death of the former spouse

If the former spouse dies, a copy of the death certificate must be submitted to ORS and all payments to the former spouse will cease.

The retirant's pension may be adjusted to reflect the share of the pension paid to the former spouse. The retirant's pension will be increased by the amount paid to the former spouse, with the following conditions:

- If the joint survivor option was left in effect and the former spouse is the beneficiary, the retiree's pension will be adjusted to a straight life allowance.
- If the former spouse chose an annuity as the form of payment, the retirant's pension **will not be adjusted**.

Voiding a survivor option chosen at retirement

If a survivor option naming the former spouse was chosen at retirement, it may be voided by filing one of the following documents with ORS:

1. A true or certified copy of a Judgement of Divorce, which includes the language below.

"IT IS FURTHER ORDERED AND ADJUDGED that the plan administrator shall, upon receipt of this order, negate and declare null and void, the retirant's election of the survivor option _____ [select 50%, 75%, or 100%] previously filed with the plan administrator relinquishing all of the former spouse's rights to any pension or benefit after the death of the retirant. Beginning the first month following the presentation of a certified copy of this order to the plan administrator, the retirement allowance shall revert to a straight life allowance."

2. An acceptable DRO declaring the selected joint survivor option VOID. (See sample DRO.)

Upon ORS' receipt of a true or certified copy of a Judgment of Divorce or an acceptable DRO, the retirant's pension will be adjusted to a straight life allowance. The adjusted straight life allowance will be effective the first of the month after ORS' receipt of the acceptable court order.

Upon the death of the retirant

If the retirant dies, all DRO payments cease to the former spouse, unless the former spouse chose a lifetime annuity. If a survivor option was chosen at retirement and remains in effect, the survivor pension becomes payable the first of the month following ORS' receipt of the retirant's death certificate.

Health, dental, vision, and life insurance information

Effective the date of divorce, the former spouse is no longer eligible for the retirant's health, dental, vision, and life insurance coverages. It is the retirant's responsibility to remove the former spouse from the insurance coverages by completing an *ORS Insurance Change Request form* and returning it to ORS along with a copy of the Judgement of Divorce as soon as possible.

Pursuant to federal law, a divorced spouse removed from health, dental, and vision insurance(s) may continue the state of Michigan's group plan(s) for up to three years through the COBRA direct pay insurance program. The coverage will not change. He/she would be required to pay 102 percent of the insurance premiums. Insurance rates are available upon request.

For information concerning the COBRA direct pay insurance program, you may contact our office at the address below:

Department of Management and Budget
Office of Retirement Services
P.O. Box 30171
Lansing, MI 48909
Phone (517) 322-5103 in Lansing
or (800) 381-5111
Fax (517) 322-6988

Other comments

- The retirement system prohibits a refund of member contributions to a retirant.
- Payments from the retirement system to the former spouse cannot be converted to a lump sum distribution or to provide a survivor benefit.
- Section 402(a) of the Internal Revenue Code requires that the recipient of funds from a qualified retirement plan must pay taxes on the distribution.

How to contact the State of Michigan 401(k) and 457 plans

If you are a member of the State Employees', State Police or Judges retirement system and enrolled in the State's 401(k) or 457 plans, contact CitiStreet to change your beneficiary.

CitiStreet
Attn: State of Michigan Plan Administrator
P.O. Box 55497
Boston, MA 02205-5497
(800) 748-6128

About the Sample Domestic Relations Order

ORS has developed a sample Domestic Relations Order (DRO) that can be used for retirees of each system. Submitted court orders that follow the sample DRO *exactly* can be approved by ORS more quickly and without modifications. While the sample DRO may not cover every possible type of valid provision, court orders that depart from the sample, will require a more detailed review and may take longer to process.

The sample DRO is designed to be flexible within the constraints of the statute and other applicable law.

Note

When reviewing the sample DRO, please note the text in square brackets “[]” offers you a choice. Only one choice should be selected and included in the DRO.

For example

If the retirant is a member of the Michigan Public School Employees retirement system and the following is displayed:

**[Michigan Public School Employees/State Employees'/Michigan State Police/Judges]
_____ retirement system**

Insert the appropriate retirement system.

Michigan Public School Employees retirement system

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF _____

Plaintiff

vs.

Case No. _____
HON. _____

Defendant

P

Attorney for Plaintiff
(Address) _____

(Phone #) _____

P

Attorney for Defendant
(Address) _____

(Phone #) _____

Choose the appropriate system in brackets. Only one retirement system should be listed

Domestic Relations Order for the
[Michigan Public School Employees/State Employees/Michigan State Police/Judges]
_____ Retirement System

At a session of said Court, held in the courthouse, in the city of _____,
County of _____, State of Michigan, on the ____ day of _____,
AD 20__.

PRESENT: HON. _____

Choose the appropriate term and system that applies in brackets. Only one system and public act should be listed.

This Order is intended to serve as a Domestic Relations Order (DRO) by which the [Plaintiff/Defendant], _____, assigns a portion of [his/her] retirement benefits, under the retirement system specified below, to the [Plaintiff/Defendant], _____, in accordance with RS 1846, ch 84, §18; MCL 552.18, and the _____ [Michigan Public School Employees/State Employees/Michigan State Police/Judges] Retirement Act _____ [(Public Act 300 of 1980, 46(5); MCL 38.1346 for Michigan Public Schools or (Public Act 240 of 1943 as amended) for State Employees or (Public Act 182 of 1986 as amended); MCL 38.1601 *et seq*, MSAS4002 {ici} etc) for State Police or (Public Act 234 of 1992 as amended);MCL 38.2101 for Judges].

Choose the appropriate system in brackets. Only one system should be listed.

1. The Retirement System (the Plan) subject to this Order is as follows:

[Michigan Public School Employees/State Employees/Michigan State Police/Judges] _____ Retirement System

Department of Management and Budget

Attention: Plan Administrator

P.O. Box 30171

Lansing, Michigan 48909-7671

(517) 322-5103 in Lansing or (800) 381-5111

Choose the appropriate term in brackets.

2. The Retirant is the [Plaintiff/Defendant], _____,
Social Security No. ____-____-____; Date of Birth _____;
Retirement effective date _____, Option chosen _____,
Whose last known address is:

_____.

Choose the appropriate term in brackets.

3. The Former Spouse is the [Plaintiff/Defendant], _____,
Social Security No. ____-____-____; Date of Birth _____;
Retirement effective date _____, Option chosen _____,
Whose last known address is:

_____.

4. The Retirant and the Former Spouse were married on _____
and were divorced on _____.

Choose the appropriate term in brackets.

5. The Retirant assigns to the Former Spouse a portion of **[his/her]** benefits from the Plan and the Plan will pay benefits to the Former Spouse according to the following terms and conditions.

Choose from one of the following alternatives using the notes on the left. Alternatives 1-4 are applicable to all systems. Alternative 5 is not an option for members of the State Police Retirement System.

Use Alternative 1 if the survivor option remains in place and a percentage of the pension is assigned to the former spouse.

Alternative 1

It is the parties' intention, and the order of this Court, that the Former Spouse receive a monthly benefit from the Plan of _____% of the Retirant's pension, which was effective on **[retirement effective date]**. This assignment includes a prorata share of any guaranteed benefit increases. All benefits under the terms of this order payable to the former spouse will revert to the retirant upon the former spouse's death.

Use Alternative 2 if the survivor option remains in place and a dollar amount of the pension is assigned to the former spouse.

Alternative 2

It is the parties' intention, and the order of this Court, that the Former Spouse receive a monthly benefit from the Plan of \$_____ from the Retirant's pension, which was effective on **[retirement effective date]**. This assignment will include any guaranteed benefit increases in the amount of \$_____. All benefits under the terms of this order payable to the former spouse will revert to the retirant upon the former spouse's death.

Use Alternative 3 if the survivor option was not selected at retirement and a percentage of the pension is assigned to the former spouse.

Alternative 3

It is the parties' intention, and the order of this Court that the Former Spouse receive a monthly benefit from the Plan of _____% of the Retirant's pension, which was effective on **[retirement effective date]**. This assignment includes a prorata share of any guaranteed benefit increases. The former spouse's benefit will be actuarially adjusted to provide payments for the lifetime of the former spouse. This is a permanent reduction to the retirant's pension.

Use Alternative 4 if the survivor option was not selected at retirement and a dollar amount of the pension is assigned to the former spouse.

Alternative 4

It is the parties' intention, and the order of this Court that the Former Spouse receive a monthly benefit from the Plan of \$_____ from the Retirant's pension, which was effective on **[retirement effective date]**. This assignment will include any guaranteed benefit increases in the amount of \$_____. The former spouse's benefit will be actuarially adjusted to provide payments for the lifetime of the former spouse. This is a permanent reduction to the retirant's pension.

Alternative 5 may be used with one of Alternatives 1-4 or as a stand alone alternative. Choose the applicable survivor option in brackets.

Alternative 5

It is possible under the terms of divorce for the survivor option chosen at retirement be converted to a straight life allowance for the retirant's lifetime. A new beneficiary may not be selected. To declare the survivor option null and void the following language is required: (Note this alternative does not apply for members of the State Police retirement system.)

"IT IS FURTHER ORDERED AND ADJUDGED that the plan administrator shall, upon receipt of this order, negate and declare null and void, the retirant's election of retirement option [50%, 75%, or 100%] previously filed with the plan administrator relinquishing all of the former spouse's rights to any pension or benefit after the death of the retirant. Beginning the first month following the presentation of a certified copy of this order to the plan administrator, the retirement allowance shall revert to a straight life allowance."

6. This assignment of benefits does not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan. This assignment does not require the Plan to provide increased benefits, determined on the basis of actuarial equivalent values. This assignment does not require the Plan to provide benefits to the Former Spouse, which are required to be paid to another Former Spouse under another order previously determined to be a DRO or EDRO.
7. The Retirant, the Former Spouse and the Court intend this order to be a DRO under the Plan and applicable law.
8. In the event the administrator of the Plan determines this Order not to be a DRO satisfactory to the Plan, the Retirant and the Former Spouse hereby agree to submit to and request a court of competent jurisdiction to modify the Order to make it a DRO satisfactory to the Plan in such a manner that will reflect the parties' intent as herein expressed and thereafter to enter an order modifying this Order to comply with the Plan and applicable law.

Approved as to:

____ P _____

Attorney for Plaintiff

____ P _____

Attorney for Defendant

Circuit Court Judge

Date _____

Date _____

Distribution of copies:

Original to Circuit Court Clerk

Certified Copy to Plan Administrator (*address in number 1*)